

**MELLINGER KARTZMAN LLC**

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Order Filed on March 4, 2020  
by Clerk  
U.S. Bankruptcy Court  
District of New Jersey

In re:

**MICHAEL KALFUS AND  
ROBIN KALFUS,**

Debtor.

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY**

Case No. 18-13396 (VFP)

Chapter 7


Honorable Vincent F. Papalia

**INTERIM ORDER ON MOTION OF THE CHAPTER 7 TRUSTEE  
FOR ENTRY OF AN ORDER DIRECTING TURNOVER OF PROPERTY  
OF THE ESTATE TO THE TRUSTEE PURSUANT TO 11 U.S.C. § 542(a)**

The relief set forth on the following pages, numbered two (2) through four (4), is hereby

**ORDERED.**

**DATED: March 4, 2020**

  
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**Honorable Vincent F. Papalia  
United States Bankruptcy Judge**

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Debtor: Michael and Robin Kalfus

Case No.: 18-13396 (VFP)

Caption: Scheduling Order on Motion of the Chapter 7 Trustee for Entry of an Order Directing Turnover of Property of the Estate to the Trustee Pursuant to 11 U.S.C. § 542(a)

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This matter having been brought before the Court by motion of Steven P. Kartzman, the court-appointed Chapter 7 Trustee (the “Trustee”), by and through counsel, Mellinger Kartzman LLC, for entry of an order directing turnover of property of the estate to the Trustee pursuant to 11 U.S.C. § 542(a) (the “Motion”); and Michael and Robin Kalfus (the “Debtors”) having filed opposition to the Motion (the “Opposition”) [Dkt. No. 160]; and the Trustee having filed a reply to the Debtors’ Opposition (the “Reply”) [Dkt. No. 170]; and a hearing having been conducted on the Motion on February 25, 2020; and the Court having made the following preliminary determinations:

a) The rents from the Property<sup>1</sup> during the period of August 1, 2018 to July 26, 2019 (the “Relevant Period”) constitute property of the estate pursuant to 11 U.S.C. § 541(a)(6)(b). The Trustee is entitled to recover the “net rents” during the Relevant Period. The “net rents” equal the excess of rents collected with respect to the Property during the Relevant Period over expenses paid by the Debtors with respect to the Property during the Relevant Period.

b) The Debtors have not disputed the amounts as set forth in the Motion as to the rents collected (\$87,291.49) and expenses paid by the Debtors (\$28,533.75) during the Relevant Period.

c) The Trustee was acting within the scope of his duties and exercised reasonable business judgment in investigating the possible sale of the Property prior to noticing an abandonment of the Property.

d) The Trustee did not abandon and reserved all his rights as to the estate’s interest in the rents from the Property during the Relevant Period.

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<sup>1</sup> Capitalized terms, not otherwise defined herein, shall have the meaning ascribed to them in the Motion.

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Debtor: Michael and Robin Kalfus

Case No.: 18-13396 (VFP)

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e) Notice was not provided, but needs to be provided, to all parties that may have a secured interest (including an Assignment of Rents) in the post-petition rents from the Property for the Relevant Period, including, but not limited to: (i) Shellpoint Mortgage Servicing, and its mortgagee; (ii) Bayview Loan Servicing; and its mortgagee; and (iii) the Internal Revenue Service (collectively, the “Additional Notice Parties”), to afford the Additional Notice Parties an opportunity to respond to the Motion.

It is hereby

**ORDERED AS FOLLOWS:**

1. The hearing on the Motion shall be continued until March 31, 2020 at 10:00 a.m.
2. The Debtors shall have until March 20, 2020 to: (i) file with the Court and serve on the Trustee evidence of expenses paid during the Relevant Period that are not already included in the figure of \$28,533.75 in expenses paid by the Debtors during the Relevant Period (the “Additional Expenses”); and (ii) otherwise supplement their objection to the Motion.
3. The Trustee shall serve the Additional Notice Parties with a copy of this Order and the Motion within three (3) business days of its entry and promptly file proof of service of same.
4. All parties asserting a secured or other interest in the post-petition rents from the Property for the Relevant Period shall have until March 24, 2020 to file a response/opposition, if any, to the Motion.

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Debtor: Michael and Robin Kalfus

Case No.: 18-13396 (VFP)

Caption: Scheduling Order on Motion of the Chapter 7 Trustee for Entry of an Order Directing Turnover of Property of the Estate to the Trustee Pursuant to 11 U.S.C. § 542(a)

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5. The Trustee shall have until March 27, 2020 to file a reply/opposition to any amounts asserted by the Debtors as Additional Expenses paid during the Relevant Period or any other objection of the Debtors, as well as a reply to any response/opposition filed by a party asserting a secured or other interest in the rents.